.Continued from page 3.)

ministration wanted he did not see why they should fight it. He favored the bill because it treated all alike. He had confidence in the Superintendent and in the Governor. The Governor would never do anything to squeeze the

Mr. Paris said that if the Superintendent was buildozing people, as the previous speaker intimated, he thought it was time they tied him down, Some other bills introduced in the Senate had been turned down because it was said this session was only for the purpose of retrenchment.

Mr. Achi argued that the situation was that half the people were paying because they did not know the law. In answer to Mr. McCandless he said the committee had seen Superintendent Holloway, who was heartily in favor of the charges and wanted a lien on

Mr. McCandless began to read a list of charges, when the President asked if they were for the minute or month, and he replied they were per annum. "Well, that is reasonable enough," President Crabbe commented. The speaker said it seemed to him some of them were very heavy charges. Sewers were not put in for the benefit of Honolulu alone. They had benefited the whole islands. Most of the shipping entered Honolulu and sewers were put in to prevent the closing of the port, which would be a disaster to the whole Territory. It had cost him in Nuuanu street nearly \$100 to connect with the About 1200 people connected would have to pay for the whole system. Last session the House rejected a Senate bill fixing rates, which were not to exceed \$2 for connecting a house. The bill allowed the Superintendent to sell a man's property for failure to pay rates, while in the matter of water all he could do was to cut off the supply. Mr. Achi asked if an execution could not be taken out to enforce water rates, and the answer was perhaps it could but a man's sewers could not be cut out.

The bill was laid on the table, those voting against that disposition of it being Achi, Dickey, Isenberg and Wil-

EXECUTIVE APPOINTMENTS.

Before the sewerage bill was disposed of, Secretary Atkinson entered with a message from the Governor. This conveyed a list of executive appointments since last session of the Senate, which were new submitted for its confirmation or otherwise. The message was read, but it being now 12 o'clock the consideration of the message was set for 2 p. m., to which hour the Senate

AFTERNOON SESSION.

Mr. Woods, whenever the Senate resumed at 2 p. m., moved a suspension of the rules to reconsider House bill This carried and the mover then proposed a string of amendments to salaries, being certain items previously amended by the Senate, with the following results:

Salary of garbage clerk, \$85 a month,

Salary of gunpowder and kerosene oil keeper, Honolulu, cut back from \$125 to \$100 a month. Senator Mc-Candless forced a division on this, saying he didn't believe in putting that salary back. They were being stood up by the House. The Superintendent of Public Works told him he was opposed to reducing that salary.

Cut out the words making the clerk of water works also clerk of the garbage department, and cut the salary back from \$125 to \$100 a month. The bill as thus amend

passed on third reading, 12 to 1, Kaiue giving the only no.

SEWERAGE BILL AGAIN.

Mr. Brown moved suspension of the rules, which carried, to reconsider the sewerage rates bill.

Mr. Isenberg moved as an amendment the insertion of existing rates from the department's printed card. Summarized the rates are as follows, being annual charges;

Dwelling houses ranging from 20 ft. x25 ft. to 35 ft.x40 ft, floor space, \$3 to \$6 and \$1 additional for each 300 square

Lodgings, tenements and stores, for every adult, 75c.

Restaurants, saloons and hotels, for five kinds of fixtures in number from one to five each-ur., \$2 to \$10; w. c., \$4 to \$18; wash basins, \$1 to \$3; baths, \$2 to \$9; sinks, \$6 to \$13. Laundry tubs, \$5 each; floor drains

\$5 each. Laundries and factories-2 to 6 per-

sons employed, \$5 to \$12; over 6 persons, \$1,50 each additional. Stables, each head of live stock, 75c. Mr. Isenberg said the rates were

first made by John A. McCandless as

head of the department, then carried out by Jas. H. Boyd. Mr. Paris renewed his previous objection to the bill that it was too much

power to put in the hands of one man. and a maximum should be fixed by law. The Governor had told him it was impossible to make charges without authority of law. With amendments he was willing to waive his objections, but yet doubted if the bill could be passed this session when amended by the Senate, it would have to go book to the House.

Mr. Kalonokolani was still for leave lug the bill to the regular sensi-Mr. Dickey seconded the amendment

to ment toins.

Mr. Mulandless repeated by older tion of the inventor that the lift work the few already connected pay for the many not. He mayed an association The songressian annual charge should be \$10 Propin mays baken Exactly Exercise on the presents will water rates, and our received rates and BANK ANDERS FRISE

ANY Pains the rates having been said thought the people of themself people applicate their test tout Mr. familiary referred incoming to his? Herwall

stubs of the books downstairs for proof that the rich were not paying sewer rates as things now stood. The only large block that paid was the Judd building. None but 'poor people and

Chinese" paid the rates. Mr. McCandless, if the bill was going to pass, wanted his \$10 limit inserted. Mr. Paris asked him if he would have a one-story cottage charged the same as a four-story hotel, and he answered that not more than \$10 he answered that he meaning annual charge was his meaning. "The

age just the same?"

Mr. Achi said that was a foolish amendment. It would enable the owner of several houses on a single tract to pay only the same as the owner of a single cottage.

Mr. McCandless replied to all his critics that their remarks only gave reason for referring the bill to the Judiclary committee. It had come in unexpectedly and his amendment was

only to check excessive charges. The amendment was lost and Mr. senberg, abandoning his own amendment, moved to pass the bill as it came from the House, Mr. Kalauokalani moved it be indefinitely postponed, which was lost 3 to 4 on show of hands, and, the vote being questioned, a risng vote gave 7 against killing the bill, It then passed second reading, 7 to 3, and was ordered read a third time today.

EXECUTIVE APPOINTMENTS.

The Governor's message was taken up for consideration. Mr. Isenberg moved that the Senate go into executive session, but the Senate was overwhelmingly in favor of public consideration of the executive appointments.

At first the names were voted on separately but this was changed to reading the list through, members to state objections they might have to any appointments as reached.

Mr. Kalauokalani objected to J. H. Fisher, Auditor, but only rallied Messrs Kalue and Kaohi with him against confirmation.

Mr. Paris offered the only other objection, this being to Robert K. Nalpo as inspector of elections for the first precinct of the second Representative district. He explained that there was nothing personal in the objection, but Kau was not represented on the board. The appointment was not confirmed. It vas made by Governor Dole,

With the foregoing exception, the appointments were all confirmed in block, on motion of Mr. Dickey, after the reading.

ANOTHER BILL SHELVED.

Mr. McCandless, chairman, presented t report of the Finance committee on Senate bill No. 18, recommending it be laid on the table as being not necessary to the purpose of this special session. This was the chairman's own bill to amend the Act of 1903, making appropriations from the loan fund. The report was adopted.

THE DEPOSITARY BILL.

Only by strenuous resistance did Mr. Achi save his bill providing for Government bank deposits. Mr. McCandless reported on it from the Finance committee. It was "a very good bill," the committee said, but they thought it should be introduced at the next regular session. They recommended it be laid on the table

Mr. Achi moved the report itself be laid on the table,

"I really believe," he proceeded to say, "that the bill is the most important bill to the public that has been introduced at this session without exception. The committee say it is a good bill, yet say it must be postponed to propriations, the court saying: the regular session. I believe in passing any good bill."

County bill?"

Mr. Achi-"The County bill is a good thing, but we have not got time to pass it." He went on to speak of the loan money lying idle in the Treasury running up a big interest bill, when this measure would make it pay interest to the Territory. The bill would put that money into circulation. He introduced the bill at the request of business men. They could pass it this

The report was laid on the table to be considered with the bill. Mr. Isenberg raised a laugh by moving it be postponed until Thursday of next week.

At 3:10 the Senate adjourned until 10 'clock this morning

(Continued from page 3.)

contemplates it. And conceding it to e a mistake in the interpretation of the law, how, in view of all the circumstances of the case, can it be said that the action of the District Magistrate was willful-that he purposely favored the Kapiolani Estate to detriment of the defendants in the nuse-that he acted not upon an honest, but upon a dishonest mistake of indgment? Every mistake of a Judge or Court, and there are many, does not onstitute a ground of removal. There must be comerbing radically wrong end I do you believe that after a full hearing by the Supreme Court of the acts of this case, and under all the of the case, that could find sufficient cause for Mr. Alla's removal from office.

I have the honor to be, mr, Very respectfully yours.

E. S. PETERS.

Deputy Attorney Traceal.

2.8.5 THE SCHATCH OF A PIN MAY been death to blood possessing results from the course of this way be colded. Servered. by incompany study: g Thurshostories Pant Indian. H is applying the and becausing ag a such bounding tools for our because

TEST CASE DECIDED AFTER THE OCCASION

President Crabbe queried: "The Young Hotel only \$10 and a small cottage just the same?" Appeal Right on Principle But Recourse justice in taxing the whole islands for tage just the same?" Should Have Been Taken to the Appropriations of 1901.

ruled in the appropriations test case entitled, "In re Hawaiian Star News- tice Frear and Justice Perry-say: paper Association, Limited." The appeal from a decision of the Audiuty Attorney General E. C. Peters ap-& Stanley for the Auditor.

LAW LAID DOWN.

Following is the syllabus of the opinion, based on the reasoning of Chief Justice Frear who wrote the main deliverance, which shows that the cause for dismissing the appeal is that the Treasurer took the six months' bill of 1903 as the guide for supplying deficlencies in appropriations for the last eighteen months of the biennial period, liverance show: when, under the saving provision of the course to the appropriation bill of 1901:

extra session immediately after, passed complete appropriation bills for the first six months of the blennial period, and bills providing for a portion of the necessary expenses of the last eighteen months, but failed to provide for perhaps a half of the necessary expenses for those eighteen months on the supposition that those expenses would be borne by counties under an act which turned out to be void. Held,

"That the expenses so unprovided for could be paid out of the last appropriation bills by the Treasurer with the advice of the Governor under section

54 of the Organic Act, and "That 'the last appropriation bills," within the meaning of that section, were those of 1901 and not the six months bills of 1903."

THE ARGUMENT.

"It is not disputed," the court says in the body of its opinion, "that the expenses now in question were 'neces sary current expenses' within the mean-ing of Sec. 54 of the Organic Act."

The court also finds that the Legisand that its failure to appropriate money for necessary expenses was encontend that in such case it had "act- necessary expenses."

propriations, the court saying:

"If it means that every appropriation bill must cover a period of two years or that appropriation bills may be passed only one in two years that is, at the nediately following the regular session, there would be extreme embarrassment. bills thus far passed by the Territorial should have been drawn against. Legislature might be void or the Legislature at its present special session

other set for the time thereafter." The opinion discountenances the idea function of passing appropriation bills. priation bills."

On this the court says: "Whether those officers could make tentionally omit a single appropriation regular session the law, if any, for the execution of which a similar appropriation had been made by the preceding Legislature, it is unnecessary to say. It will be time enough to decide that question when it arises.

On the question of what constitutes the "last appropriation bills," the fol-

owing shows the court's mind:
"The appropriations of 1901 were the the Legislature should act and only such 'sums appropriated in the last appropriation bills shall be deemed to have been reappropriated as are useessary to supply the deficiencies whether any new bills are passed a not. The new bills replace the of once as far as they go. The same appropriated for horizonty garrent or person are the first over with refer the time spoken of that is unti-Hury are replaced and only to so for as they are not replaced by the new Thorn is nothing to inclinate the Diblock there a still should be breed applied by the con-

By a concurrent decision of the Su- expression of the legislative will, the preme Court, Auditor Fisher is nomi- essence being that they might be renally sustained but technically over- ferred capriciously to any six months the majority of the court-Chief Jus-

"The wording of the appropriation in either the six-months bill or that of 1901 answers the purposes of the vouchtor declining to issue a warrant er now in question, and if this were all paying a printing bill of that is required, the appeal would have \$251.25 incurred by the tax bureau is to be sustained. But as the appropriadismissed, but without prejudice. Dep- tion for 1901 can be drawn upon only by the Treasurer with the advice of the Governor, and as neither of those peared for the appellant, and Holmes officers has been shown to have sanctioned such action, the appeal must be dismissed, but without prejudice."

SUPPLEMENTAL OPINION.

Justice Galbraith renders a separate opinion in which the concurrence is only for the dismissing of the appeal, He dissents strongly from the general bearing of the majority opinion, as the

"The questions presented by this ap-Organic Act, he should have had re- peal, seem to be, at this time, more academic than practical, since the The Legislature falled at its regular legislature is now in special session, ession in 1993 to provide for the nec- having been convened by the Governor essary expenses of the government for for the purpose of enacting financial its legislation, and is indicating an earnest lend his fine tenor voice—so rarely lead his fine tenor voice—so rarely heard in public lately. After the continuous for the purpose of energial legislation, and is indicating an earnest lend his fine tenor voice—so rarely heard in public lately. After the continuous for the purpose of energial legislation, and is indicating an earnest lend his fine tenor voice—so rarely heard in public lately. After the continuous form of the purpose of energial lend his fine tenor voice—so rarely heard in public lately. After the continuous form of the purpose of energial lend his fine tenor voice—so rarely heard in public lately. After the continuous form of the purpose of energial lend his fine tenor voice—so rarely heard in public lately. After the continuous form of the purpose of the the succeeding biennial period. In its legislation, and is indicating an earnest cles however occasioned

"I might be content with this statement were it not for the fact that the decision of the majority of the court gives a construction to Section 54 of the Organic Act that is so wide of my views of the proper construction of that section that not even 'the peculiar conditions,' that are said to exist in this Territory, will justify me in passing the question without giving, at least, of the reasons for my views.

"The conclusion announced in the majority opinion can only be arrived at from the view point that the legislature is not a coordinate branch of the Territorial Government but is subordinate and subject to the domination of the Executive or the Judiclary."

"The power of the legislature extends to 'all rightful subjects of legislation.' The appropriation of money for payment of the necessary current expenses lature "acted," and did so "in good of carrying on the government and faith," in making appropriations in 1903, meeting its legal obligations as the same are provided by the then existing law, is a rightful subject of legislatirely due to its confidence that the tion. This power includes not only the County Act was valid. In a strict sense authority to appropriate money to pay it might be said to have "acted" if it all current running expenses of the had only "considered" appropriations government but also the right to de-and rejected them, but nobody would termine what shall constitute such ontend that it should be a whatever authority determines the There is considerable discussion of amount and character of the 'neceswhatever authority determines the the purport of the word "biennial" as sary current expenses' of the governapplied to legislative sessions and apment performs a legislative function.

regular session or the extra session imthey were mistaken and that another In such case most of the appropriation and different set of appropriations

"The legislature adjourned in May, 1903, and the 'necessity' for these apmight not be able to relieve the propriations arose in January 1, 1904, present financial situation at all still no one will be able to tell what by the passage of appropriation money was reappropriated by this self This court has already acting automatic Section 54, until the held that the Legislature could decision in this case is filed. If the divide the biennial period, by passing use of these appropriations has been so 'absolutely essential' to the preservaone set of bills for the time before the 'absolutely essential' to the preserva-county act should take effect and and tion of the Territorial Government, as is contended, the poor old territory would have been done for long before that the Treasurer and Governor may the decision of this case if filed for that supplement the action of the Legisla- is as early as it could be known with ture in the exercise of the legislative certainty which were the 'last appro-

"It is suggested that some calamity payments under the last appropriation threatens the territory if this section bills in case the Legislature should inconstruction placed upon it is necessary as unnecessary without first specifical-iy and independently repealing at its Government. The fear and the claim are equally imaginary and unfounded. The Organic law of this territory has now been in force for almost four years and only one time during this period has any attempt been made to obtain relief from the power claimed for this section, and this attempt was an utter failure, or at least the imagined relief was not essential, for the Territorial ones to be deemed reappropriated until Government was preserved without the relief that this section was supposed to

"I bolievo a great mintake will be Bunds of the bill providery for the political and retical system is not much and theverent Naricy problems full the golding of this wheelest The as they are rearries by proton to make parently binaries to province of parkings between 11 th Hopobilican makerity water has good a

bill providing for the collection of charges it will be impossible to collect anything for such service. Supt. Holloway has been getting a large number of complaints from householders who say that they won't pay garbage or sewer charges unless their neighbors pay as well. As it is now, not more than five per cent of the bills are paid and this administration has done nothing to enforce collections because of waiting for the Legislature to enact maintaining the sewer system of Ho-nolulu and don't believe it should be so. We are paying out \$40,000 a year in the garbage service now and I don't know what the cost of the sewers is. It is not just or equitable, but the government will not be able to do anything unless some sort of a law is en-

ISENBERG MONUMENT

Unveiling Ceremony at Lihue Takes Place Tomorrow.

(From Thursday's Advertiser.)

Senator D. P. R. Isenberg goes to Kauai today to attend the dedication of the monument to his late father, Hon. Paul Isenberg, at Lihue tomorrow morning. The Senator will perform the ceremony of unveiling the memorial tablet. After the ceremony there will be a luau prepared for two thousand guests, given by Mrs. Dora Isenberg. This will take place in the afternoon.

In the evening there will be a concert, to which Senator Isenberg will holiday for the occasion.

Among the family connections pres-ent will be Mrs. Dora Isenberg, Senator Isenberg, H. A. Isenberg, of the Hackfeld corporation, and Mrs. Isenperg. M. R. Isenberg, Mother Rice and ne Rice family. The monument consists of a three

cornered stone from Lihue plantation, taken in its natural state and erected upon a pedestal of cemented masonry, bearing in one side a bronze portrait in low relief of the late Mr. Isenberg. It is a stone weighing about seven tons and beautifully adapted for its purpose, and the monument stands eight or ten feet high. The site of the monument is about half an acre in size. It is opposite the old Linue store and was given by the plantation company for this pur-The area has been enclosed with a neat fence, while trees and orna-mental shrubbery have been planted within it by Mrs. Dora Isenberg, Mrs. Rice and the plantation people. Concrete steps lead up from the road to the enclosure and a cement wall has been erected on one side of the road, where the rise is quite steep, to preserve the grounds.

TREASURER TAKES OFFICE

Treasurer A. J. Campbell formally took charge of the Treasury office yesterday afternoon. Judge Kepoikai surrendered the keys about two o'clock and turned over the treasury combination, but with little cash in the strong box. Auditor Fisher immediately be gan work auditing the books and counting the cash, as is customary Overland when such a change occurs.

Delegates from Lihue to the Republican convention are J. H. Coney, S. Kaulii and W. H. Rice, D. K. Kapahee is delegate from Koloa.

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